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UNITED STATES DEPARTMENT OF AGRICULTURE  
AGRICULTURAL ADJUSTMENT ADMINISTRATION

CODE OF FAIR COMPETITION SERIES—CODE No. 17

CODE OF FAIR COMPETITION  
FOR  
THE WHOLESALE FRESH FRUIT AND  
VEGETABLE DISTRIBUTIVE  
INDUSTRY

Approved by the President of the United States  
June 29, 1934

Effective July 16, 1934

1. Executive Order
2. Letter of Transmittal (Secretary of Agriculture)
3. Letter of Transmittal (Administrator, N.R.A.)
4. Code



UNITED STATES  
GOVERNMENT PRINTING OFFICE  
WASHINGTON : 1934



## EXECUTIVE ORDER

### Approval of Code of Fair Competition for the Wholesale Fresh Fruit and Vegetable Distributive Industry

*Whereas*, the Secretary of Agriculture and the Administrator of the National Industrial Recovery Act having rendered their separate reports and recommendations and findings on the provisions of said Code, coming within their respective jurisdictions, as set forth in the Executive Order No. 6182 of June 26, 1933, as supplemented by Executive Order No. 6207 of July 21, 1933, and Executive Order No. 6345 of October 20, 1933, as amended by Executive Order No. 6551, of January 8, 1934.

*Now, therefore*, I, FRANKLIN D. ROOSEVELT, President of the United States, pursuant to the authority vested in me by Title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, do hereby find that:

1. An application has been duly made, pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for my approval of a Code of Fair Competition for the Wholesale Fresh Fruit and Vegetable Distributive Industry; and,

2. Due notice and opportunity for hearings to interested parties has been given pursuant to the provisions of the Act and regulations thereunder; and,

3. Hearings have been held upon said Code, pursuant to such notice and pursuant to the pertinent provisions of the Act and regulations thereunder; and,

4. Said Code of Fair Competition constitutes a code of fair competition, as contemplated by the Act and complies in all respects with the pertinent provisions of the Act, including clauses (1) and (2) of subsection (a) of section 3 of Title I of the Act; and,

5. It appears, after due consideration, that said Code of Fair Competition will tend to effectuate the policy of Congress as declared in section 1 of Title I of the Act.

*Now, therefore*, I, FRANKLIN D. ROOSEVELT, President of the United States, pursuant to the authority vested in me by Title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, do hereby approve said Code of Fair Competition for the Wholesale Fresh Fruit and Vegetable Distributive Industry: *Provided, however*, That the continued participation of the American Fruit and Vegetable Shippers Association, the Western Fruit Jobbers Association of America, the International Apple Association, and the National League of Commission Merchants of the United States, shall be contingent upon the amendment of their by-laws to the satisfaction of the Secretary of Agriculture and the Administrator for Industrial Recovery.

  
*President of the United States.*

THE WHITE HOUSE, June 29, 1934.

# AGRICULTURAL ADJUSTMENT ADMINISTRATION

## LETTER OF TRANSMITTAL

The PRESIDENT,  
*The White House.*

DEAR MR. PRESIDENT: The Secretary of Agriculture has the honor to submit the following:

1. There is transmitted herewith a Code of Fair Competition for the Wholesale Fresh Fruit and Vegetable Distributive Industry, which he recommends for your approval and which the National Recovery Administrator recommends for your approval with reference to the labor provision thereof. There accompanies the Code the report of the Administrator of the Agricultural Adjustment Act, the report of the Administrator of Title I of the National Industrial Recovery Act, and a true, correct, and complete stenographic report of all the evidence introduced at a public hearing on said Code, held pursuant to section 3 (a), Title I of the National Industrial Recovery Act.

2. By virtue of Executive Order No. 6182, of June 26, 1933, as supplemented by Executive Order 6207, of July 21, 1933, and Executive Order No. 6345, of October 20, 1933, as amended by Executive Order No. 6551, of January 8, 1934, which, pursuant to Title I of the National Industrial Recovery Act of June 16, 1933, (Public No. 67, 73d Congress) delegated to the Secretary of Agriculture, certain of the powers vested in the President of the United States by the aforesaid Act, and after considering the aforesaid Code of Fair Competition and a true, correct, and complete stenographic report of all evidence introduced at such public hearing, and being fully advised in the premises, the Secretary of Agriculture makes the following findings:

1. That an application has been made through a Code Committee by the National Fresh Fruit and Vegetable Council, pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for the approval of the President, of the Code of Fair Competition for the Wholesale Fresh Fruit and Vegetable Distributive Industry. Said National Fresh Fruit and Vegetable Council and the supervisory body provided for in such Code are truly representative of this industry, and no inequitable restrictions on admission to membership are imposed by the said Council.

2. That the Wholesale Fresh Fruit and Vegetable Distributive Industry, covered by such Code, is included within the trades, industries or subdivisions thereof enumerated in Section II of Executive Order No. 6551 of January 8, 1934 (amending Executive Order No. 6182 of June 26, 1933, as supplemented by Executive Order No. 6207 of July 21, 1933, and Executive Order No. 6345 of October 20, 1933).

3. That the provisions of the Code establishing standards of fair competition (a) are regulations of transactions in or affecting interstate commerce and (b) are reasonable.

4. That the Code is not designed to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against them and will not permit monopolies or monopolistic practices.

5. That the Code will not prevent an individual from pursuing the vocation of manual labor and selling or trading the products thereof nor prevent anyone from marketing or trading the produce of his farm.

6. That due notice and opportunity for hearing, in connection with the aforesaid Code, has been afforded interested parties, in accordance with Title I of the National Industrial Recovery Act and applicable regulations issued thereunder.

7. That said Code will tend to effectuate the declared policy of Title I of the National Industrial Recovery Act as set forth in section 1 of said Act in that the terms and provisions of such Code tend to: (a) Remove obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof; (b) to provide for the general welfare by promoting the organization of industry for the purposes of cooperative action among trade groups; (c) to eliminate unfair competitive practices; (d) to promote the fullest possible utilization of the present productive capacity of industries; (e) to avoid undue restriction of production (except as may be temporarily required); (f) to increase the consumption of industrial and agricultural products by increasing purchasing power; and (g) otherwise to rehabilitate industry and to conserve natural resources.

8. That said Code, when approved by the President, will constitute a Code of Fair Competition for the Wholesale Fresh Fruit and Vegetable Distributive Industry within the meaning of section 3 (a) of Title I of the National Industrial Recovery Act.

9. Certain provisions of the requirements of membership in the four national trade associations authorized to participate in the selection of the Code Authority, namely, the American Fruit and Vegetable Shippers Association, the Western Fruit Jobbers Association of America, the International Apple Association, and the National League of Commission Merchants of the United States, being deemed to be inequitable, the said associations have agreed to amend those requirements, as soon as possible, to the satisfaction of the Secretary and the Administrator. In order to make sure that such amendments are made, it is recommended that the approval of this Code be made subject to the condition that the continued participation of the associations in the selection of the Code Authority be contingent upon the making of such amendments as soon as possible, and the Executive Order approving the Code has been prepared accordingly.

Respectfully,

*Hawallace*

*Secretary.*

JUNE 13, 1934.



## NATIONAL RECOVERY ADMINISTRATION

### LETTER OF TRANSMITTAL

The PRESIDENT,  
*The White House.*

SIR: This is the report of the Administrator on the Public Hearing of the labor provisions of the Code of Fair Competition for the Wholesale Fresh Fruit and Vegetable Distributive Industry of the United States, conducted on January 8 and 9, 1934, in accordance with the provisions of the National Industrial Recovery Act and the Executive order dated June 26, 1933.

The functions of the industry include the shipping, receiving, selling or buying, or offering to sell or buy, either as principal or agent, fresh fruits and vegetables in wholesale quantities.

This Code applies to all individuals and concerns engaged in the distribution of fresh fruits and vegetables from the point of original shipment to the retailer. Said concerns are of two classes:

(1) Wholesale fresh fruit and vegetable dealers who distribute to the retail trade, numbering about 7,450 in 1929, employing approximately 50,300 persons, and

(2) Production point buyers, assemblers and shippers, numbering in 1929 about 3,650, employing approximately 42,500 persons.

The firms are mostly small, in 1929 averaging 8.2 employees each. Only a few firms have a large number of employees.

The proponent of this Code is the National Fresh Fruit and Vegetable Council; said Council having been created by a mass meeting of members of the industry, called by four trade associations, namely, American Fruit and Vegetable Shippers Association, International Apple Association, National League of Commission Merchants of the United States, and Western Fruit Jobbers Association of America, for the purpose of negotiating and securing a code for the industry. Non-members of these associations also participated in the mass meeting. The Chairman of the Code Committee testified at the Public Hearing that the "members of the four organizations probably handle seventy to seventy-five percent of the actual movement of goods", and, further, that they were representative of the industry.

The following tables reflect the decrease in the volume of business: (It is highly probable that the number of firms are appreciably fewer, compared with 1929, as the average sales per firm are small and the margin of profit generally narrow.)

#### ESTIMATE OF DOLLAR VOLUME OF BUSINESS

1929	1933	Decline
\$3,259,976,000-----	\$2,150,000,000-----	34 percent



## ESTIMATE OF CAR-LOT VOLUME OF BUSINESS

	Rail and boat loads	Truck loads <sup>1</sup>	Truck loads percent of total load- ings	Rail, boat, and truck loads	Percent of increase or decrease since 1929
1929-----	1,066,400	173,600	14	1,240,000	-----
1930-----	1,044,208	206,350	16.5	1,250,788	0.9
1931-----	1,013,012	237,620	19	1,250,632	.8
1932-----	833,192	241,894	22.5	1,075,086	-13.3
1933-----				<sup>2</sup> 1,036,063	-16.5

<sup>1</sup> Incomplete.<sup>2</sup> Truck loadings estimated.

The estimated number of employees in the industry is:

	1929	June 1933
Male-----	77,273	-----
Female-----	15,526	-----
Total-----	92,799	<sup>1</sup> 76,500
Decrease (percent)-----		17.8

<sup>1</sup> Latest estimate available.

Approximately 10 percent of the employees are on a part-time basis, working one day (Friday) each week.

As a result of the maximum hours established by the Code, the estimated increase in employment is as follows:

Office Employees-----	3,600
All others-----	4,400
Total-----	8,000
Increase over June, 1933-----	10.5 percent

The estimated increase in the wage bill due to new employees is \$6,255,000.

## ADMINISTRATION

The Code Authority will consist of twelve members and they are to be selected by a method which is deemed to assure its representative nature. Provision is made for the necessary expenses of the Code Authority in its administration of the Code.

## PROVISIONS AS TO HOURS

Clerical and office employees are placed on a 44 hour week; most of the other employees are on a 48 hour week, with an exception for truck drivers and helpers on trucks who may work not to exceed an additional four hours upon payment of time and one-third. There may be two peak periods of three weeks each in a calendar year, one peak to be at the holiday season, the other optional. During these peaks, employees may work not over 12 hours in any day, nor more than 48 hours per week, averaged over four weeks. On one day each week employees may work an additional hour, but such hour is included in the 48 hours for the week.

Executive and managerial employees receiving regularly \$35.00 or more per week, outside salesmen, outside buyers and solicitors are exempt from hour restrictions, as are also employees engaged in emergency maintenance and repair work, with a penalty of time and one-third for hours worked in excess of 48. Watchmen are restricted to 56 hours per week.

### PROVISIONS AS TO WAGES

The minimum wage rates in this Code are as follows:

Cities and Trade Areas	North (Per Week)	South (Per Week)
Population 500,000 or over.....	<sup>1</sup> \$16.00	<sup>1</sup> \$15.00
Population 250,000 to 500,000.....	<sup>1</sup> 15.50	<sup>1</sup> 14.50
Population 100,000 to 250,000.....	<sup>1</sup> 14.50	13.50
Population 25,000 to 100,000.....	14.00	13.00
Population below 25,000.....	13.00	12.00

<sup>1</sup> Differential of \$2.00 per week for office boys and messengers, but in no event shall the minimum wage all below \$12.00.

Transient or temporary labor may be employed on an hourly basis at the same rates prescribed above when adjusted to an hourly rate.

Minimum rates of pay are guaranteed under this Code, regardless of whether compensated on a time-rate or piece-work basis. Provision is made for the maintenance of fair differentials and wage adjustments; the employment of physically handicapped persons on light work; the posting of labor provisions and the maintenance of health and safety standards. Child labor is prohibited; no person under 18 years of age may be employed in a dangerous occupation.

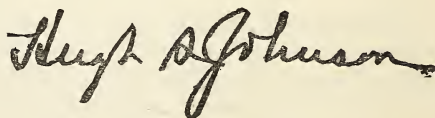
### COMPLIANCE WITH MANDATORY PROVISIONS

The Administrator finds that:

The Code as recommended complies in all respects with the pertinent provisions of Title I of the Act, including without limitations, section 7 (a) and section 10 (b) of the Act.

Accordingly I recommend the approval of the Code of Fair Competition for the Wholesale Fresh Fruit and Vegetable Distributive Industry to the extent of my jurisdiction as stated in your Executive Order of June 26, 1933.

Respectfully,



Administrator.

JUNE 12, 1934.

# CODE OF FAIR COMPETITION FOR THE WHOLESALE FRESH FRUIT AND VEGETABLE DISTRIBUTIVE INDUSTRY

## ARTICLE I—PURPOSES

To effect the policies of Title I of the National Industrial Recovery Act, this Code is established as a Code of Fair Competition for the Wholesale Fresh Fruit and Vegetable Distributive Industry, and its provisions shall be the standards of fair competition for such industry, and shall be binding upon every member thereof.

## ARTICLE II—DEFINITIONS

SECTION 1. The terms "wholesale fresh fruit and vegetable distributive industry" and "industry" as used herein include shipping, receiving, selling or buying, or offering to sell or buy, either as principal or agent, fresh fruits and fresh vegetables in wholesale quantities, but shall not include the sale or distribution of fresh fruits or fresh vegetables other than to a trade buyer. The industry as defined shall not include the production nor preparation, assembling, or loading at point of production of commodities for shipment, nor shall anything in this Code or regulations thereunder prevent anyone from marketing or trading produce of his farm.

SEC. 2. The term "member of the industry" as used herein includes, without limitation any individual, partnership, association, corporation, or other form of enterprise engaged in the industry, either as an employer or on his or its own behalf.

SEC. 3. The terms "Act", "Secretary", and "Administrator", as used herein, mean respectively Title I of the National Industrial Recovery Act; the Secretary of Agriculture, or his duly appointed agent; and the Administrator for Industrial Recovery, or his duly appointed agent.

SEC. 4. The term "President" as used herein, means the President of the United States.

SEC. 5. The term "person" as used herein, means individual, partnership, corporation, trust, association, or any other business unit.

SEC. 6. The term "agent" as used herein means any person acting as broker, commission merchant, auction company, solicitor, and any other person acting by virtue of actual or implied authority from his or its principal.

SEC. 7. The term "commission merchant" or "commission firm" as used herein means any person engaged in the business of receiving any fresh fruits and/or fresh vegetables for sale on commission for or on behalf of another.

SEC. 8. The term "broker" or "brokerage firm" as used herein means any person engaged in the business of negotiating sales and purchases of any fresh fruits and/or fresh vegetables for or on behalf of a vender or a purchaser.

SEC. 9. The term "employee" as used herein includes any and all persons engaged in the industry, however compensated, except a member of the industry.

SEC. 10. The term "employer" as used herein means any person by whom any employee is compensated or employed.

SEC. 11. The term "trade buyer" as used herein means any commercial buyer as distinguished from an ultimate consumer buyer.

SEC. 12. The term "watchman" as used herein includes only an employee whose principal function is watching the place of business and/or the property of his employer, or goods entrusted to him and doing those things necessary for their protection.

SEC. 13. The term "outside salesman" as used herein, means a salesman who is engaged not less than sixty (60) percent of his working hours outside the establishment, or any branch thereof, by which he is employed.

SEC. 14. The term "outside service employees" as used herein means employees engaged primarily in delivering or servicing merchandise outside the establishment and shall include stable and garage employees.

SEC. 15. The term "outside buyer" as used herein means any employee whose principal function is that of buying fresh fruits and fresh vegetables for resale, and the majority of whose working time is spent outside the establishment of his employer.

SEC. 16. The term "solicitor" as used herein means any employee whose principal function is that of soliciting fresh fruits and fresh vegetables for shipment on consignment, and the majority of whose working time is spent outside the establishment of his employer.

SEC. 17. The term "South" as used herein means the following States: Virginia, North Carolina, South Carolina, Florida, Georgia, Kentucky, Tennessee, Alabama, Mississippi, Arkansas, Louisiana, Oklahoma and Texas.

SEC. 18. The term "office boy" or "messenger" as used herein means one who does office and/or messenger duty but does not prepare or sell or deliver merchandise.

SEC. 19. The term "population", as used herein, means the population as determined on the basis of the latest Federal Census.

### ARTICLE III—HOURS

SECTION 1. No employee shall be permitted to work in excess of forty-eight (48) hours in any one week or nine (9) hours in any twenty-four (24) hour period, except as follows:

(a) Executive and managerial employees, provided they receive regularly thirty-five dollars (\$35.00) or more per week; also outside salesmen, outside buyers and solicitors.

(b) Watchmen (except while engaged in performing any operating function), provided that no such watchmen shall be employed more than fifty-six (56) hours in any one week.

(c) Truck drivers and helpers on trucks making route deliveries may be permitted to work not more than an additional four (4) hours, averaged over 1 week, the compensation for such additional hours in excess of forty-eight (48) hours to be at the rate of time and one-third.



(d) There may be two (2) peak periods in each calendar year, of three (3) weeks each, one of which shall include the winter holiday season, the other to be optional, during which employees may be permitted to work not more than forty-eight (48) hours per week, averaged over a period of four (4) weeks, but no employee shall be permitted to work in excess of twelve (12) hours in any one day. Employees performing work during such peak periods shall be compensated on the basis of straight time for the hours so worked.

(e) On one day each week employees may be permitted to work not more than one extra hour, but such hour shall be included in the maximum hours permitted for each week.

(f) Any employee on emergency maintenance or emergency repair work involving breakdowns or protection of life or property, including fresh fruits and fresh vegetables, may be permitted to work in excess of the maximum hours hereinabove provided, but in any such special case at least one and one-third times the normal rate shall be paid for hours so worked in excess of such maxima.

SEC. 2. No person employed in clerical or office work shall be permitted to work in excess of forty-four (44) hours in any one week or eight (8) hours in any twenty-four (24) hour period.

SEC. 3. Employers shall arrange that employees' working hours shall be consecutive, provided that an interval not longer than one (1) hour may be allowed for each regular meal period, and such interval need not be counted as part of the employee's working time. Any rest period which may be given employees shall not be deducted from such employees' working time.

SEC. 4. No employee shall be permitted to work for a total number of hours in excess of the number of hours prescribed herein, whether employed by one or more employers.

SEC. 5. No employee, except when engaged in performing a watchman's duties, shall be permitted to work more than six (6) days in any seven (7) day period.

#### ARTICLE IV—WAGES

SECTION 1. No employee shall be paid less than at the following wage rates, except that no provision of this section shall result in the establishment of a weekly wage rate of less than twelve dollars (\$12.00) in any case:

(a) Not less than sixteen dollars (\$16.00) per week in cities of 500,000 population or over, or in the immediate trade areas thereof;

(b) Not less than fifteen dollars and fifty cents (\$15.50) per week in cities where the population is not less than 250,000 nor more than 500,000, or in the immediate trade areas thereof;

(c) Not less than fourteen dollars and fifty cents (\$14.50) per week in cities where the population is not less than 100,000 nor more than 250,000 or in the immediate trade areas thereof;

(d) Not less than fourteen dollars (\$14.00) per week in cities where the population is not less than 25,000 nor more than 100,000 or in the immediate trade areas thereof;

(e) Not less than thirteen dollars (\$13.00) per week in all other places.

Office boys and messengers may be paid at a rate of two dollars (\$2.00) below the minima specified in paragraphs (a), (b), (c), and

(*d*) of this section, but the number of such employees shall not exceed five percent (5%) of the total number of office and clerical employees of each employer in each establishment. Each employer shall be entitled to at least one such employee.

The minimum wages paid to employees in the South may be at the rate of one dollar (\$1.00) less than the minima specified in paragraphs (*a*), (*b*), (*c*), (*d*) and (*e*) of this section.

(*f*) Temporary or transient labor may be employed on an hourly basis according to the hereinabove prescribed weekly rate applicable in the respective localities in which they shall be employed.

SEC. 2. This article establishes a rate of pay which shall apply irrespective of whether an employee is actually compensated on a time-rate, piece-work, or other basis.

SEC. 3. Whenever the adoption of the minimum rates of this Code results in lessening the differential between unskilled labor and skilled labor, wages above the minimum shall be increased so as to maintain fair differentials. In no case shall weekly rates be reduced as a result of the adoption of this Code. A report shall be made to the Administrator by the Code Authority within ninety (90) days after the effective date of this Code analyzing the adjustment of wages above the minimum, reporting the number of employees in the industry and the length of their service.

SEC. 4. After the effective date of this Code, wages shall be exempt from any charges, fines, or deductions, except for employees' voluntary contributions for pensions, insurance or benefit plans, and no employer shall withhold wages except upon service of legal process or other papers lawfully requiring such withholding.

SEC. 5. Female employees performing substantially the same work as male employees shall receive the same rate of pay as male employees.

SEC. 6. A person whose earning capacity is limited because of age, physical or mental handicap, or other infirmity, may be employed on light work at a wage below the minimum established by this Code, if the employer obtains from the State Authority, designated by the United States Department of Labor, a certificate authorizing such person's employment, at such wages and for such hours as shall be stated in the certificates. Such authority shall be guided by the instructions of the United States Department of Labor in issuing certificates to such persons. Each employer shall file monthly with the Code Authority a list of all such persons employed by him, showing the wages paid to, and the maximum hours of work for such employee.

## ARTICLE V—GENERAL LABOR PROVISIONS

SECTION 1. No person under sixteen (16) years of age shall be employed in the industry. No person under eighteen (18) years of age shall be employed in operations or occupations which are hazardous in nature or detrimental to health. Within sixty (60) days after the effective date of this Code, the Code Authority shall submit to the Administrator a list of such operations or occupations. In any State an employer shall be deemed to have complied with this provision as to age if he shall have on file a certificate or permit duly signed by the authority in such State empowered to issue em-



ployment or age certificates or permits showing that the employee is of the required age.

SEC. 2. (a) Employees shall have the right to organize and bargain collectively through representatives of their own choosing and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(b) No employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing.

(c) Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

SEC. 3. No provision in this Code shall supersede any State or Federal law which imposes on employers more stringent requirements as to age of employees, wages, hours of work, or as to safety, health, sanitary or general working conditions, or insurance, or fire protection, than are imposed by this Code.

SEC. 4. Employers shall not change the method of payment of compensation or reclassify employees or duties or occupations performed by such employees, or discharge employees to re-employ them at lower rates, or engage in any subterfuge, so as to defeat the provisions of the Act or of this Code.

SEC. 5. All employers shall post and keep posted copies of this Code in conspicuous places accessible to all employees. Every member of the industry shall comply with all rules and regulations relative to the posting of provisions of codes of fair competition which may from time to time be prescribed by the Administrator.

SEC. 6. Truck drivers and helpers on trucks, where trucks are owned by a person as defined in section 6, article II of this Code, are subject to the hours, wages, and general labor provisions herein set forth.

SEC. 7. Employers shall make payment of all wages due in lawful currency or by negotiable checks, payable on demand. All contracts of employment shall prescribe payment of wages at least every two (2) weeks.

SEC. 8. Each employer shall provide for the safety and health of the employees during the hours and at the places of their employment. Standards for safety and health shall be submitted by the Code Authority to the Administrator within six (6) months after the effective date of the Code.

## ARTICLE VI—ORGANIZATION, POWERS, AND DUTIES OF THE CODE AUTHORITY

SECTION 1. *Code Authority.*—1. A supervisory body to be known as the Code Authority shall be established for the purpose of assisting in the administration, supervision, and promotion of the performance of the provisions of this Code. Except as the jurisdiction of the Secretary and the Administrator may hereafter be changed pursuant to order of the President, the Code Authority shall assist

the Administrator in all matters relating to the administration of provisions in this Code relating to hours of labor, rates of pay, and other conditions of employment and shall assist the Secretary in all matters relating to the administration of all the other provisions of this Code.

2. The Code Authority shall consist of twelve (12) members and shall be constituted forthwith upon the approval of this Code, in the following manner:

(a) Eight (8) members shall be selected by the members of the industry who are members of the following national trade associations viz: Two (2) by the American Fruit and Vegetable Shippers Association, two (2) by the Western Fruit Jobbers Association of America, two (2) by the International Apple Association, and two (2) by the National League of Commission Merchants of the United States. Upon the selection and approval of such eight (8) members of the Code Authority, they may organize and function as a temporary Code Authority for a period of not to exceed forty-five (45) days, pending the selection of the remaining members of the Code Authority as herein provided. The eight (8) members so selected shall select one (1) additional member. Three (3) members shall be selected by those members of the industry who are not members of any of the foregoing organizations. The temporary Code Authority shall, within the time herein specified, submit to the Secretary and Administrator for their approval, a plan for the selection, under its supervision, of such remaining three (3) members of the Code Authority. Members of the Code Authority shall serve for a period of one (1) year or until their successors have been selected, the filling of vacancies in the membership to be made by vote of the Code Authority. Selection or appointment of members of the Code Authority and the filling of any vacancies shall be subject to the disapproval of the Secretary and/or Administrator; and

(b) In addition to membership as above provided, the Secretary and the Administrator may each appoint from one (1) to three (3) members or representatives without vote, to serve for such terms as they may specify.

3. Each trade or industrial association directly or indirectly participating in the selection or activities of the Code Authority shall (1) impose no inequitable restrictions on membership, and (2) submit to the Secretary and the Administrator true copies of its articles of association, bylaws, regulations, and any amendments when made thereto, together with such other information as to membership, organization, and activities as the Secretary or the Administrator may deem necessary to effectuate the purposes of the Act.

4. In order that the Code Authority shall at all times be truly representative of the industry and in other respects comply with the provisions of the Act, the Secretary or the Administrator may prescribe such hearings as he may deem proper; and thereafter if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of the Code Authority, or take such other action as the evidence adduced at the hearing may warrant.

5. It being found necessary, in order to support the administration of this Code and to maintain the standards of fair competition established by this Code and to effectuate the policy of the Act, the Code Authority is authorized, subject to the approval of the Secretary and the Administrator:

(a) To incur such reasonable obligations as are necessary and proper for the foregoing purposes and to meet such obligations out of funds which may be raised as hereinafter provided and which shall be held in trust for the purposes of the Code;

(b) To submit to the Secretary and Administrator for their approval, subject to such notice and opportunity to be heard as the Administrator and the Secretary may deem necessary, (1) an itemized budget of its estimated expenses for the foregoing purposes, and (2) an equitable basis upon which the funds necessary to support such budget shall be contributed by members of the industry;

(c) After such budget and basis of contribution have been approved by the Administrator and the Secretary, to determine and secure equitable contribution as above set forth by all members of the industry, and to that end, if necessary, to institute legal proceedings therefor in its own name.

6. Each member of the industry shall contribute and pay to the Code Authority his share, determined as hereinabove provided, of the funds so to be raised by the Code Authority.

7. Any funds which the Code Authority shall have on hand, or be entitled to receive under this Code, upon the termination of this Code, over and above any amount necessary to meet outstanding obligations, shall at such time be returned to members of the industry pro rata in proportion to their contributions made pursuant to this Code.

8. Only members of the industry complying with the Code and contributing to the expenses of its administration, shall be entitled to participate in the selection of the members of the Code Authority, or to receive the benefit of its voluntary activities, or to make use of any emblem or insignia of the National Recovery Administration.

9. Nothing contained in this Code shall constitute the members of the Code Authority partners for any purpose. Nor shall any member of the Code Authority be liable in any manner to anyone for any act of any other member, officer, agent, or employee of the Code Authority. Nor shall any member of the Code Authority, exercising reasonable diligence in the conduct of his duties hereunder, be liable to anyone for any action or omission to act under this Code, except for his own willful malfeasance or nonfeasance.

10. If the Secretary or the Administrator shall determine as to matters subject to their respective jurisdiction that any action of the Code Authority or any agency thereof may be unfair, or unjust, or contrary to the public interest, the Secretary or the Administrator, as the case may be, may require that such action be suspended to afford an opportunity for investigation of the merits of such action and further consideration by such Code Authority or agency pending final action which shall not be effective unless the Secretary or the Administrator approves, or unless he shall fail to disapprove after thirty (30) days' notice to him of intention to proceed with such action in its original or modified form.



SEC. 2. *Powers and duties.*—1. The Code Authority shall, subject to the disapproval of the Secretary and Administrator, supervise the establishment of local, regional, or district committees hereinafter designated the "local committee", to assist it in performing its duties under this Code. The local committee, where practical, shall be selected by those engaged in the industry in the local region or district which the local committee serves and shall have power to establish rules and regulations to meet local conditions, such as credits, stabilization of markets, and hours of business, subject to the disapproval and to the continuing authority of the Code Authority and/or the Secretary and/or Administrator.

2. In all matters relating to the administration of the provisions of this Code, except those relating to hours of labor, rates of pay, and other conditions of employment (except as the jurisdiction of the Secretary and the Administrator may hereafter be changed pursuant to order of the President), the Code Authority shall have the following further powers and duties, the exercise of which shall be reported to the Secretary:

(a) Subject to such rules and regulations as may be issued by the Secretary, to insure the execution of the provisions of this Code and to provide for the compliance of the industry with the provisions of the Act;

(b) To adopt bylaws and rules and regulations for its procedure;

(c) To obtain from members of the industry such information and reports as may be necessary for the administration of this Code by the Code Authority and the performance of its powers and duties hereunder. No such individual reports shall be disclosed to any other member of the industry or any other party except as may be directed by the Secretary;

(d) To use with the approval of the Secretary such trade associations and other agencies as it deems proper for the carrying out of any of its activities provided for herein, provided that nothing herein shall relieve the Code Authority of its duties or responsibility under this Code and that such trade associations and agencies shall at all times be subject to and comply with the provisions hereof;

(e) To make recommendations to the Secretary for the coordination of the administration of this Code with such other codes, if any, as may be related to the industry, or affect members of the industry;

(f) To recommend to the Secretary any action or measures deemed advisable, including further fair-trade-practice provisions to govern members of the industry in their relations with each other or with other industries, and measures for industrial planning.

3. In all matters relating to the administration of the provisions of this Code relating to hours of labor, rates of pay, and other conditions of employment (except as the jurisdiction of the Secretary and the Administrator may hereafter be changed pursuant to the order of the President) the Code Authority will have the following duties, subject to such rules and regulations as may be issued by the Administrator, the exercise of which shall be reported to the Administrator:

(a) To insure the execution of the provisions of this Code and to provide for the compliance of the industry with the provisions of the Act;

(b) To adopt bylaws and rules and regulations for its procedure;  
(c) To obtain from members of the industry such information and reports as may be necessary for the administration of this Code by the Code Authority and the performance of its powers and duties hereunder. No such individual reports shall be disclosed to any other member of the industry or any other party except as may be directed by the Administrator;

(d) To use such trade associations and other agencies as it deems proper for the carrying out of any of its activities provided for herein, provided that nothing herein shall relieve the Code Authority of its duties or responsibilities under this Code and that such trade associations and agencies shall at all times be subject to and comply with the provisions hereof;

(e) To make recommendations to the Administrator for the coordination of the administration of this Code with such other codes, if any, as may be related to or affect members of the industry;

(f) To cooperate with the Administrator in regulating the use of any NRA insignia solely by those members of the industry who are complying with this Code, and have been duly licensed under the Perishable Agricultural Commodities Act;

(g) To recommend to the Administrator any action or measure deemed advisable in connection with industrial planning and the stabilization of employment; and

(h) To provide appropriate facilities for arbitration, and subject to the approval of the Administrator, to prescribe rules of procedure and rules to effect compliance with awards and determinations.

#### ARTICLE VII—TRADE-PRACTICE PROVISIONS

The following practices constitute unfair methods of competition and are prohibited:

SECTION 1. *Destructive price cutting.*—1. No member of the industry shall engage in destructive price cutting. Selling or offering to sell a product below the current market price shall be prima facie evidence of destructive price cutting, but such selling or offering to sell a product may be justified by a member of the industry by showing that such selling or offering for sale was:

(a) Not below a fair and reasonable price and not for the purpose and with the effect of unduly discriminating between purchasers or localities, or of injuring a competitor, or of unduly suppressing competition, or of creating a monopoly;

(b) To avoid the hazards of depreciation of value of the product through decline of markets or deterioration of the product, or

(c) To dispose of damaged or defective products designated as such, or

(d) For charitable or relief purposes, or

(e) Required by law, or

(f) For such other good and sufficient reason as may be determined by the Secretary or by the Code Authority with the approval of the Secretary.

SEC. 2. *Representation of both buyer and seller.*—1. No person shall accept compensation from both buyer and seller nor represent

buyer and seller in the same transaction, except as provided by statute, without the knowledge and consent of both buyer and seller.

SEC. 3. *Sales by agent.*—1. No person, acting as agent for a seller, shall sell to himself or any other person owning or controlling such agency through financial arrangements, stock control or the personnel of officers or management, or in which such agency is financially interested directly or indirectly, without the written consent of the principal whose property is involved in the sale.

2. In any such transaction as permitted in paragraph 1 of this section the agent shall not charge, collect, or accept from the shipper or seller any commission, brokerage, rebate, discount, or other compensation for making such sale.

3. Nothing herein contained shall prevent a commission merchant or other agent from taking goods to his own account to clean up remnants of shipments or receipts so that returns shall not be unduly delayed: *Provided, however,* That such taking to account has been consented to in advance by the owner or is fully noted on the account of sales together with all details thereby giving the owner an opportunity to acquiesce in or disavow such act; and *Provided further,* That no commission or other fees shall be charged on goods so taken to account, without the consent or acquiescence of the owners.

SEC. 4. *Resale.*—For an agent to sell or purport to sell to another person and, by agreement with the buyer to obtain an interest in the goods and/or participate directly or indirectly in any profits made by the buyer, from a resale of the goods, without the knowledge and approval of his principal.

SEC. 5. *Rebates and discounts.*—1. Secret payment or allowance of rebates, refunds, commissions, unearned discounts, or unearned advertising or other allowances, whether in the form of money or otherwise, or secretly extending to certain principals or purchasers special services or privileges not extended to all purchasers under like terms and conditions.

2. Nothing in this Code shall be construed so as to prevent any bona fide and legitimate cooperative organization, including any farmers' cooperative, from being entitled to receive, and/or distribute to its members as patronage dividends or otherwise, the proceeds or benefits directly or indirectly derived from any discount, commission, rebate or dividend (a) ordinarily paid or allowed to other purchasers for purchases in wholesale or middleman quantities or (b) paid or allowed pursuant to the requirements or provisions of any code of fair competition to other purchasers for purchases in wholesale or middleman quantities.

SEC. 6. *Unearned brokerage.*—Acceptance from a seller by a buyer or his representative or payment by a seller to a buyer or his representative of brokerage or other compensation which in fact is a rebate or price differential or a special inducement influencing the sale.

SEC. 7. *Confirmation of sales.*—For a broker to fail promptly to issue a written memorandum of sale in any transaction made verbally or by telephone or in which a signed confirmation is not obtained. For any agency to transmit an order when the buyer refused to sign a confirmation of sale without plainly disclosing to the principal that he has no written confirmation but only a verbal understanding.



SEC. 8. *Defamation*.—Defamation of competitors by falsely imputing to them inability to perform contracts, questionable credit standing, or other false derogatory representation as to their business or the false disparagement of the grade or quality of their goods, with the tendency and capacity to mislead or deceive purchasers, or to falsely discredit the competitors with their principals.

SEC. 9. *Breach of contract*.—Wilfully inducing or attempting to induce the breach of existing contracts between competitors and their customers, or wilfully interfering with or obstructing the performance of any such contractual duties or services with the purpose and effect of hampering, injuring, or embarrassing competitors in their business.

SEC. 10. *Commercial bribery*.—No member of the industry shall give, permit to be given, or directly offer to give anything of value for the purpose of influencing or rewarding the action of any employee, agent, or representative of another in relation to the business of the employer of such employee, the principal of such agent, or the represented party, without the knowledge of such employer, principal, or party. This shall not be construed to prohibit the free and general distribution of articles commonly used for advertising, except so far as such articles are actually used for commercial bribery as hereinabove defined.

SEC. 11. *Coercion*.—The use of false or misleading statements, threats of violence or any unlawful coercion to influence the purchase or sale or in connection with the solicitation for selling on commission or brokerage of fresh fruits and/or fresh vegetables.

SEC. 12. *Fictitious prices*.—False statement of prices or conditions of markets or any other false statements as to the conditions of the industry with the intent of influencing prices either at point of origin or at consuming markets or for the purpose of obtaining consignments or retarding consignments or embarrassing a competitor, or for any fraudulent purpose.

SEC. 13. *Absorption of terminal expense*.—Absorption by the seller of the buyer's terminal expense in order to sell favored customers, and the absorption of the shipper's terminal expense to entice shipments away from competitors.

SEC. 14. *False representation*.—For anyone to represent himself as a commission merchant, broker, or agent, when in truth he is acting as a principal.

SEC. 15. *Simultaneous offering*.—The simultaneous offering by any person of the same car or cars of any commodity through more than one brokerage agency in the same city so that such commodity, in effect, competes with itself and serves to indicate larger offerings than actually exist.

SEC. 16. *Certification*.—The use of the term "certified" or any term or statement which would indicate official certification in connection with the sale or offering for sale of any fresh fruits and/or fresh vegetables except those certified by an officially approved State or Federal agency.

SEC. 17. *False advertising*.—To publish or disseminate in any manner a false advertisement of any fresh fruits and/or fresh vegetables.

## ARTICLE VIII—GENERAL

SECTION 1. *Modification.*—1. This Code and all the provisions thereof are expressly made subject to the right of the President of the United States, in accordance with the provisions of sub-section (b) of section 10 of the Act, from time to time, to cancel or modify any order, approval, license, rule, or regulation issued under said Act.

2. In the event that any license is hereafter issued or any marketing agreement hereafter executed by the Secretary of Agriculture pursuant to the Agricultural Adjustment Act, approved May 12, 1933, as amended, for the wholesale fresh fruit and vegetable distributive industry or any subdivision thereof, containing provisions relating to any one or more of the subject matters referred to in subclauses (1) to (7), inclusive, of section 1 of Executive Order No. 6551, signed by the President on January 8, 1934, then, to the extent specifically provided in such license or marketing agreement, the provisions of such license and/or marketing agreement shall, for the duration thereof, supersede and suspend the operation of any provisions of this Code relating to the same subject matters.

SEC. 2. *Reports.*—The members of the industry shall severally, from time to time, upon the request of the Secretary (or the Administrator in the case of information relating to hours of labor, rates of pay, and other conditions of employment) furnish such information to such Federal and State agencies on and in accordance with forms of reports supplied to them (which reports shall be verified under oath) as the Secretary or the Administrator may designate and require (a) for the protection of consumers, competitors, employees, and others, and in furtherance of the public interest, and (b) for the determination by the Secretary or the Administrator of the extent to which the declared policy of the Act is being effectuated by this Code.

The members of the industry shall severally within thirty (30) days after the effective date of this Code, or within thirty (30) days after becoming a member of the industry, if not a member thereof on such effective date, report to the Code Authority the name under which the member conducts his business, together with his permanent mail address, and shall within ten (10) days after any change of address report his new address to the Code Authority.

Nothing in this Code shall relieve any person of existing obligations to furnish reports to Government agencies.

No individual reports shall be disclosed to any other member of the industry or any other party except as may be directed by the Secretary or the Administrator.

SEC. 3. *Monopolies, etc.*—No provision of this Code shall be so applied to permit monopolies or monopolistic practices, or to eliminate, oppress, or discriminate against small enterprises.

## ARTICLE IX—EFFECTIVE DATE

This Code shall become effective on the third Monday after its approval by the President.

